TRAUB LIEBERMAN

NEWS & EVENTS

August 26, 2021

Traub Lieberman Attorneys Burks Smith and Katie Keller Win Daubert Motion Excluding Plaintiff's Expert's Testimony in the Middle District of Florida

Related Attorneys: Burks A. Smith, III, Kathryn Keller

Traub Lieberman Partner, Burks Smith, and Associate, Katie Keller, represented a national property insurer in a breach of contract action brought by a homeowner in the Middle District of Florida for substantial property damage alleged to have been caused by hail and wind. Throughout the course of litigation, the homeowner disclosed his expert, which is the same individual that prepared the homeowner's estimate of damages and causation report. The expert's credentials list that he is a general contractor, independent adjuster, and inspector. Mr. Smith and Ms. Keller moved under *Daubert v. Merrell Dow Pharm.*, Inc., 509 U.S. 579 (1993) and Federal Rule of Evidence 702 to exclude testimony and introduction of any evidence prepared by the homeowner's expert. Mr. Smith and Ms. Keller argued that the homeowner's expert was not qualified to render expert testimony in this case, as he did not have the requisite qualifications to render an expert opinion, the methodology utilized by the expert to form his opinion was not sufficiently reliable, and his anticipated testimony was not helpful in the case, as it is imprecise and unspecific. Therefore, the expert's opinions did not meet the standards for admission of expert testimony as set forth in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), and should not be admitted as expert testimony at trial.

United States District Judge John Antoon II agreed with the arguments presented by Mr. Smith and Ms. Keller and issued an Order granting the Motion. The Order issued by the Judge states that the homeowner's expert does not meet the standards for admissibility of expert testimony under Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). The homeowner was also prohibited from naming a new expert, as the expert disclosure deadline had passed pursuant to the trial order. The homeowner ultimately dismissed the lawsuit against the insurer with prejudice.

© Traub Lieberman Straus & Shrewsberry LLP